

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Terri Lynn Mellon,)	
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
Kiko Kijakazi, Acting Commissioner of the Social Security Administration,)	Case No. 1:21-cv-142
)	
Defendant.)	

The Plaintiff filed a Complaint and Motion for Summary Judgment on July 1, 2021, and January 31, 2022, respectively. (Doc. Nos. 5, 19). Rather than file a responsive brief, the Defendant filed a motion to reverse and remand this matter for further administrative action pursuant to 42 U.S.C. § 405(g). (Doc. No. 22). The Plaintiff did not object, but asked for a six month time limit for the remand and reserved the right to apply for payment of EAJA attorney's fees. (Doc. No. 23). Consequently, on March 7, 2022, the Court granted the Defendant's Motion for Remand. (Case No. 1:21-cv-142, Doc. No. 23).

Now before the Court is a Motion for Attorneys' Fees filed by the Plaintiff on June 3, 2022. (Doc. No. 26). The Plaintiff is requesting an award of \$3,500.00 in attorney's fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). (Doc. No. 26).

On June 14, 2022, the Defendant filed a response to the Plaintiff's request, advising that she "does not object to an award of \$3,500.00 attorney fees under EAJA" and that the "Plaintiff's requested rate and time spent are reasonable. (Doc. No. 27).

The EAJA provides that a prevailing party is entitled to an award of fees and expenses in an action brought by or against the United States "unless the court finds that the position of the United

States was substantially justified or that special circumstances make an award unjust.” 28 U.S.C. § 2412(d)(1)(A). There being no objection from the Defendant, the court finds that the Plaintiff is eligible to receive an award of attorney’s fees as requested. Accordingly, the Court **GRANTS** the Plaintiff’s Motion for Attorney’s Fees. (Doc. No. 26). The Clerk of Court shall enter judgment for the Plaintiff and against the Defendant for attorney’s fees in the amount of \$3,500.00. These fees shall be payable directly to the Plaintiff.

IT IS SO ORDERED.

Dated this 15th day of June, 2022.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court